

### **Minor In Possession Diversion/Transport Open Container Information Sheet**

The following guidelines have been adopted by the Wichita City Attorney's Office for the Minor in Possession Diversion program in Wichita Municipal Court.

Diversion is a **privilege** afforded an accused and not a right. No presumption in favor of diversion exists in any case, and the burden of persuasion rests with the applicant to establish that a diversion agreement will best serve the ends of justice and the interests of the community, public safety and the rights of victims.

It is not required that the defendant have an attorney for the purpose of diversion, however, a defendant has the right to employ an attorney and have him/her present throughout the diversion process.

#### **Eligibility: Factors Considered**

In determining whether or not diversion is appropriate, the City Prosecutor will consider a number of factors. Some of these factors include:

**You have not had a conviction or Deferred Judgment and/or Diversion within 5 years of offense.**

1. The nature of the crime and the circumstances surrounding it.
2. Any special characteristics and circumstances of the defendant.
3. Whether the defendant is a first-time offender.
4. Whether the diversion program is appropriate to the needs of the defendant.
5. The impact of diversion on the community.
6. Recommendations of the involved law enforcement community.
7. Recommendations, if any, of the victim.
8. The amount of restitution, if applicable, owed by the defendant.
9. Any mitigating or aggravating circumstances surrounding the crime.
10. Whether the defendant had a conviction or diversion within 5 years of offense.

**You have not had a conviction or Deferred Judgment and/or Diversion for such a crime or similar crime within five years of the date of offense.**

#### **Procedures**

**A \$25 non-refundable application fee is to be paid to Municipal Court prior to the initiation of the diversion process.** The City Prosecutor will review requests for diversion and may require a diversion conference with the applicant. Please review the following carefully:

- A. The diversion application **must** be completed on the form provided by the Clerk of the Municipal Court. Photocopied reproductions will not be accepted.
- B. A minimum payment of \$200 of all diversion fees are due at the time of signing the agreement. The only exception will be upon the submission of a financial affidavit by the defendant and a finding by the City Prosecutor that the defendant is indigent. All remaining fines and costs are due within ninety days.
- C. The defendant or the defendant's attorney will be notified if the diversion application has been approved. If the application is denied, the defendant or the defendant's attorney will be notified in writing.

## The Diversion Agreement

If the City Prosecutor approves a diversion agreement, the terms and conditions will be reduced to writing for approval and signature by both parties. The executed diversion agreement will be filed with the Municipal Court and criminal proceedings will be suspended as long as the defendant fulfills the terms and conditions of the diversion agreement. Upon successful completion of the agreement, the City Prosecutor will move to dismiss the charge(s) with prejudice with costs assessed to the defendant.

If at any time during the diversionary period the City Prosecutor finds that the defendant is no longer fulfilling the terms of the agreement, the City Prosecutor will file a Motion to Revoke the agreement and resume criminal proceedings.

The charges for a Minor in Possession of alcohol or Cereal Malt Beverage will be diverted for a 6 month period.

**Fees: One-half of all fees must be paid in full at the time the agreement is signed. The remainder must be paid within ninety days of signing the diversion contract.**

|               |   |
|---------------|---|
| Fine          | \$200.00  |
| Diversion Fee | \$100.00  |
| Court Costs   | <u>\$102.00</u> (includes \$25.00 application fee)* |
| <b>Total</b>  | <b>\$402.00</b>                                     |

As a condition of the diversion, a drug and alcohol safety action program must be completed within ninety days of signing the diversion agreement.

### Court Approved drug and alcohol safety action programs:

| AGENCY                                      | PHONE #              | ADDRESS  | SERVICES                         |
|---|----------------------|--|----------------------------------|
| A New Dimension                             | 265-8600             | 2422 S. Seneca A.                                |                                  |
| ADAPT                                       | 721-0971             | 10209 W. Central, Suite 103                      |                                  |
| Advance Solutions Addiction Management, LLC | 788-1664             | 205 W. Crestway Ave., Suite 200<br>Derby, Kansas |                                  |
| Addiction Counseling Services               | 263-4822             | 1101 N. West St.                                 | Bi-lingual Services              |
| Adolescent Adult Family Recovery            | 943-2051             | 3540 W. Douglas                                  |                                  |
| Atishwin                                    | 681-2533             | 937 S. Bluffview                                 |                                  |
| Behavioral Consultants, Inc.                | 263-2155             | 1047 N. Market                                   |                                  |
| Higher Ground                               | 262-2060             | 247 N. Market                                    | Spanish only                     |
| Knox Center                                 | 265-8511             | 2924 E. Douglas                                  |                                  |
| Recovery Unlimited                          | 941-9948<br>612-9002 | 3312 W. Douglas<br>555 N. Woodlawn, Suite #125   |                                  |
| So. Central Ks Court Services               | 1-620-488-3357       |  |                                  |
| STOP  | 686-7884             | 8911 E. Orme, A                                  |                                  |
| Yale Crowberg Learning Center               | 841-6549<br>613-2948 | 313 N. Seneca #110                               | Drug/Alcohol Assessments & Evals |

Applications shall be filed with the Municipal Court Clerk's Office, Second Floor, City Hall, 455 N. Main, Wichita, Kansas 67202. You can also download an application from the City of Wichita website at [www.wichita.gov](http://www.wichita.gov).

**City of Wichita-Municipal Court**  
**455 N. Main Street • Wichita, KS 67202**

**Minor in Possession Diversion Application**

***A non-refundable \$25.00 application fee must be paid with this application  
to initiate the Diversion process.***

Docket Number: \_\_\_\_\_ Attorney: \_\_\_\_\_

Court Date: \_\_\_\_\_

**ALL ANSWERS MUST BE COMPLETE. TYPE OR PRINT CLEARLY.**

LAST NAME \_\_\_\_\_ FIRST NAME \_\_\_\_\_ MIDDLE NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
TELEPHONE NUMBER-HOME (\_\_\_\_) \_\_\_\_\_ WORK (\_\_\_\_) \_\_\_\_\_ CELL (\_\_\_\_) \_\_\_\_\_

**LIST ALL PREVIOUS ADDRESSES FOR THE LAST 3 YEARS:**

|               |            |             |           |
|---------------|------------|-------------|-----------|
| Address _____ | City _____ | State _____ | Zip _____ |
| Address _____ | City _____ | State _____ | Zip _____ |
| Address _____ | City _____ | State _____ | Zip _____ |

LIST ANY ALIAS/MAIDEN NAME(S) \_\_\_\_\_ SOCIAL SECURITY NUMBER \_\_\_\_\_

RACE: \_\_\_\_\_ SEX: \_\_\_\_\_

DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_ SINGLE \_\_\_\_\_ MARRIED \_\_\_\_\_ DIVORCED \_\_\_\_\_ SEPARATED \_\_\_\_\_  
IF MARRIED, SPOUSE'S FULL NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_  
NAME ALL DEPENDENTS \_\_\_\_\_ DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_  
\_\_\_\_\_ DATE OF BIRTH \_\_\_\_/\_\_\_\_/\_\_\_\_

DRIVERS LICENSE NUMBER \_\_\_\_\_ STATE OF ISSUANCE \_\_\_\_\_

IF STUDENT, LIST PERMANENT/PARENT'S ADDRESS \_\_\_\_\_

CLOSEST RELATIVE NOT PRESENTLY LIVING WITH YOU: NAME \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Phone Number \_\_\_\_\_ Relationship \_\_\_\_\_

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**WORK EXPERIENCE**

PRESENT EMPLOYER \_\_\_\_\_ HOW LONG \_\_\_\_\_ TITLE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ PHONE \_\_\_\_\_  
WEEKLY SALARY \$ \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_  
FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_  
FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

COMPANY NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ SUPERVISOR'S NAME \_\_\_\_\_  
FROM \_\_\_\_\_ TO \_\_\_\_\_ JOB TITLE \_\_\_\_\_

HIGHEST LEVEL OF EDUCATION COMPLETED \_\_\_\_\_  
WHAT COUNTY ARE YOU CURRENTLY A RESIDENT OF \_\_\_\_\_  
WHAT STATE \_\_\_\_\_ HOW LONG \_\_\_\_\_

IF YOU MOVED TO SEDGWICK COUNTY WITHIN THE PAST 5 YEARS, WHERE DID YOU LIVE PREVIOUSLY AND WHAT PROMPTED THE MOVE? \_\_\_\_\_  
\_\_\_\_\_

**MEDICAL HISTORY – (BRIEF LIST)**

PHYSICAL CONDITION \_\_\_\_\_  
\_\_\_\_\_

LIST ANY PREVIOUS PSYCHIATRIC OR PSYCHOLOGICAL TREATMENT RECEIVED \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CRIMINAL RECORD  
(ATTACH ADDITIONAL PAGES IF NECESSARY)**

List **ALL** prior or pending offenses, including criminal, traffic and juvenile.  
Include **ALL** arrests and convictions, even if subsequently expunged.  
Also, list any other diversion programs you have previously participated in.

| Date | Offense | Location | Disposition | Parole/Probation Officer |
|------|---------|----------|-------------|--------------------------|
|      |         |          |             |                          |
|      |         |          |             |                          |
|      |         |          |             |                          |
|      |         |          |             |                          |
|      |         |          |             |                          |

PLEASE STATE IN DETAIL THE FACTS WHICH CAUSED THE **CURRENT** CHARGES AGAINST YOU TO BE FILED: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE STATE WHAT YOU BELIEVE TO BE ANY MITIGATING FACTORS CONCERNING THE CRIME(S) WITH WHICH YOU ARE CHARGED: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EXPLAIN WHY YOU FEEL YOU COULD SUCCESSFULLY COMPLETE THE DIVERSION PROGRAM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have read the foregoing application. All of the information is true and correct. I understand that if any of the foregoing information is not true and correct, this may be a basis for denial of the diversion or a revocation of my diversion. I request a continuance of the court date for my case to allow the City time to review my application and obtain the information necessary to determine whether or not a diversion can be granted. I understand that I have a right to a speedy trial and I knowingly and voluntarily waive the right to speedy trial.

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Date